

MINUTES OF THE BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS, AND GEOLOGISTS

2535 Capitol Oaks Drive, Suite 300
Sacramento, CA 95833
(916) 263-2222

Thursday, March 7, 2013
Beginning at 10:00 a.m.

Board Members Present: Paul Wilburn, President; Erik Zinn, Vice President; Carl Josephson; Mike Modugno; Philip Quartararo; Ray Satorre; Jerry Silva; Patrick Tami; and Michael Trujillo

Board Members Absent: Kathy Jones Irish; Hong Beom Rhee; Robert Stockton

Board Staff Present: Ric Moore, (Executive Officer); Joanne Arnold (Assistant Executive Officer); Nancy Eissler (Enforcement Manager); Celina Calderone (Board Liaison); Susan Christ (Staff Civil Engineer); Erin LaPerle (Analyst, Geology Program); Larry Kereszt (Enforcement Analyst); Brooke Phayer (Outreach Coordinator); and Gary Duke (Legal Counsel).

I. Roll Call to Establish a Quorum

The meeting was called to order by President Paul Wilburn at 10:05 a.m. Roll call was taken, and a quorum could not be established.

II. Public Comment

Bob Dewitt representing ACEC indicated that their legislative effort is in a bill, AB1063 that relates to surveyors. He pointed out that there are three components. The first is the ability to file with a record of survey a document that supports the information shown on a map. They found that it may be difficult to explain everything on the map. This would provide a method of recording a multipage document with the county recorder's office that would link with the map.

The second component involves monument marking. Public agencies do not have to show the license number on a monument. He explained that the membership feels that there should be responsible charge for monuments.

The third item relates to the use of the title of "County Engineer" or "City Engineer" or "City Surveyor" when a person is not licensed. This legislation would restrict the title to professional members.

Ms. Arnold reported that Mr. Moore and Mr. Mathe have ongoing dialogue with Mark Smith.

Mr. Trujillo arrived at 10:08 AM, and a quorum was established at this time.

V. Executive Officer's Report

A. Legislation

1. Discussion of Legislation for 2013: SB 152 and SB 207

Ms. Arnold reported that Senate Bill 152 and Senate Bill 207 are sponsored by the Board. SB 152 involves written contracts for Geologists and Geophysicists. She is optimistic that there will not be any problems with the written contracts. AEG is neutral and CalGeo will most likely support it, and she hopes that ACEC supports the bill.

Senate Bill 207, relating to eliminating the requirement that the address of record appear on the Board's website is scheduled to be heard April 1, 2013 in Senate Business and Professions Committee.

MOTION: Mr. Tami and Mr. Zinn moved to support SB 152 and SB 207.

VOTE: 8-0, Motion carried

2. Legislative Proposals

a. Update on Temporary Authorization Repeal for Engineering, Geology, and Geophysics (Business and Professions Code Sections 6760, 7848, and 7848.1)

She added that SB 152 will be amended to include the repeal of temporary authorizations. Temporary authorization for land surveyors has already been eliminated.

b. Update on Recommendation to Establish a Retired License Status for Professional Geologists and Geophysicists

Ms. Arnold indicated that it is in the Omnibus Bill. She has yet to receive a number.

Ms. Arnold added that she will be providing information at the next Board meeting on the following bills: AB 1063 (ACEC); SB 679 (CalGeo); and AB 186, military spouses: temporary licenses.

B. Update on Certificates of Authorization for Engineering, Land Surveying, Geological, and Geophysical Businesses

Mr. Moore indicated that staff is still researching and will provide an update at the next meeting. He continued that if there is unlicensed activity where the unlicensed person(s) has a legitimate corporation and is offering engineering, land surveying, or geology services, the individual is fined, not the company, and we cannot collect the fine from the company. Mr. Duke confirmed that the fines are on an individual basis and not a company basis.

C. Strategic Plan Update

1. Action Plan Summary for FY 2012- 2013

Mr. Moore reviewed the information provided in the agenda and provided a progress report. Mr. Satorre would like to see actual numbers. Mr. Moore will bring more information to the April meeting.

D. Personnel

Mr. Moore introduced Jaime Ingram as the new office technician for the Geology Unit.

Last September, due to budgetary constraints, the Governor eliminated retired annuitants. At that time, requests to maintain both Ms. Strubinger and Ms. Buerger were granted on a temporary basis. Requests to extend their time as retired annuitants have been denied.

1. Executive Officer Performance Evaluation

President Wilburn indicated that DCA issued a new Executive Officer evaluation that he will be initiating. Guidelines will be provided to all Board members to evaluate Mr. Moore's performance. He will coordinate with Ms. Calderone to distribute accordingly.

E. Administrative Task Force

Mr. Moore reported during January's meeting that he was attempting to organize a conference call with the taskforce; however, it was not able to be organized due to scheduling conflicts. He is hoping to accomplish this task within the next few weeks.

Mr. Silva arrived at 10:35 AM

VI. Enforcement

A. Enforcement Statistical Reports

Ms. Eissler presented the statistics through the end of January; she is currently working on the statistics that are through the end of February. The Enforcement Unit has made progress with the backlog in cases waiting for citations to be issued, others where citations have been issued and formal appeal hearings have been requested to be submitted to the AG's office. The backlog has almost been eliminated and the work is currently being managed on a flow basis as the investigations are completed. She believes that by the end of April the backlog will be eliminated for the citation cases waiting to be sent to the AG for the formal appeal hearing. Most likely by the end of the fiscal year, the backlog will be eliminated of those awaiting issuance of a citation. She explained that it will not be immediately reflected in the aging but will be in months to come.

She and Mr. Moore have been preparing for the conference call with the taskforce about information they want to take from the complaint investigation cases to figure out where there seems to be aging and what needs to be done to shorten time frames.

Mr. Moore presented graphs that reflected the decrease in aging overall throughout the year. Mr. Tami asked for timeframe for several other events such as from receipt of complaint to opening of complaint. Mr. Moore explained that they are working on providing that.

VII. Exams/Licensing

A. Examination Update

Mr. Moore reported that both State Civil exams; engineering surveying and seismic principles, and the state professional land surveying exams are being finalized for publishing for CBT. Staff has been reviewing the final versions with Prometric. There were minor issues with scheduling. A weekly conference call is held with Prometric leading up to the examination to ensure that publishing is progressing.

He explained that staff sent out an e-mail to all approved candidates and followed up with mailings due to invalid email addresses. During the first day, 800 of 1700 civil candidates were scheduled. The single Sacramento exam site filled up quickly.

Occupational Analysis for the Geology based California special component has been prepared. The 30 minute survey will be available for a month.

He reported that at the last Board meeting it was discussed and authorized that the state professional land surveyor exam would be offered twice per year as soon as feasibly and practically possible no later than October 2014. The cost to administer the exam, a second time, based on applications, historical costs to publish and score the exam, and the increased Subject Matter Expert (SME) costs to help maintain the item bank would be approximately \$5,000.00. There are approximately 400 examinees for the spring cycle. Mr. Moore anticipates that there would be an increased interest in the fall exam and a decreased interest in the spring exam then level out. Exam staff currently has content for April and October. Exam development is moving along very well. It may be possible to administer an October 2013 exam. Mr. Mathe is working with exam staff and Prometric. It would then be promoted before the October exam's final filing date of May 1, 2013. Mr. Tami noted that it would be a huge benefit for consumers and applicants. Mr. Moore explained that it is possible for candidates to take the spring exam in April, receive results, and if the candidate did not pass they will have an opportunity to refile for the October 2013 examination.

He added EIT/LSIT applications for certification are up from 50% to 75%. Staff is continuing to promote that certifications are required by sending emails, reaching out to colleges, universities, and professional societies, and posting on the Board's website and Facebook page.

VIII. Approval of Delinquent Reinstatements

Mr. Donelson indicated that there are three mechanical reinstatements that have been reviewed by President Wilburn and Mr. Silva.

MOTION: Mr. Silva and Mr. Satorre moved to approve.

VOTE: 9-0, Motion carried

IX. Consideration of Rulemaking Proposals

A. Recommendation to Amend 16 CCR 3024

Ms. LaPerle, representing the Geologists and Geophysicists Program, presented staff's recommendation to amend 16 CCR 3023 related to geologists and geophysicists abandoned applications and postponements. The proposed language mirrors the PE/PLS Board Rules 428 and 446. Staff recommends approving the proposed language.

One of the main differences is that the PE/PLS regulations require the postponement be received within 10 days after exam administration whereas the geology postponement requirements is that they be submitted before, which does not allow for exam day emergencies.

MOTION: Mr. Satorre and Mr. Zinn moved to approve language with regulation process.

VOTE: 9-0, Motion carried

B. Recommendation to Repeal Board Rules (16 CCR 443, 444, 3036.1, and 3037.1) Engineers, Land Surveyors, and Geologists – Inspection and Appeal of Examination

Mr. Moore reported that approximately one year ago the Board approved changing Board Rule 443 which allowed appeal of the National exams that met certain criteria. The Board has since eliminated appeals of national exams, partly because of the complexity of the scoring of the structural engineering exam. He has been advised several times by OPES and Prometric that multiple choice exams are psychometrically valid and are not structured to be appealed. His recommendation is to eliminate language allowing for review and appeals of exams all together. Mr. Duke pointed out that the statutes were placed at a time when the Board independently developed its own examinations. There was a certain amount of subjectivity involved at that time. Since the Board has shifted to national exams, they are designed much different than in the past. Psychometricians are opposed to appeals.

Mr. Moore indicated that there is a preliminary item analysis after the examination is administered to validate how questions performed.

MOTION: Mr. Josephson and Mr. Silva moved to approve staff's recommendation to repeal the regulations allowing for inspection and appeal of examinations.

VOTE: 9-0 motion approved

X. Administration

A. FY 2012/13 Budget Overview

Mr. Moore reported that as of the end of January 2013, PELS applications are down primarily due to not having received all EIT/LSIT applications. In addition, renewals are down compared to last year. There is a surplus of over \$2 million. The Board projects EIT/LSIT applications to increase in the future pending the Board's outreach efforts.

The Geologists and Geophysicist applications are slightly up and renewals are down. The budget allotment is on course, and there is a surplus of \$259,000. Expenditures have increased due to examination development efforts to build up the item bank for CBT and an overdue occupational analysis.

Mr. Satorre requested a more detailed report. Mr. Moore indicated that a full report was distributed at one of the two last meetings. Mr. Tami confirmed that the Board asked for a snapshot overview at each meeting and detail twice per year. President Wilburn decided to continue with the report as it is and provide a detailed report twice per year. Mr. Moore indicated that the detailed report can be provided again in July as it is the beginning of the fiscal year. Mr. Duke stated that if any board member would like access to the details behind the general report, staff can provide it directly to them.

XI. Technical Advisory Committees (TACs)

A. Board Assignments to TACs

Mr. Moore indicated that they are searching for candidates for the Civil TAC and are promoting it in various presentations. Mr. Silva offered to distribute information regarding the Civil TAC to the American Society of Civil Engineers.

Mr. Modugno would like to discuss developing a clearer definition of an electrical engineer as lighting is becoming more involved.

The Land Surveyor TAC meeting is scheduled for April 12, 2013.

B. Appointment of TAC Members

No report given

- C. Reports from the TACs
No report given

XII. Liaison Reports

- A. ASBOG
The spring council of examiners workshop is scheduled for April 5-6, 2013 in Richmond, VA. Mr. Moore asked the Board to approve appointing Mr. Zinn as a Subject Matter Expert.

MOTION: Mr. Tami and Mr. Trujillo moved to support appointing Erik Zinn to ASBOG as a Subject Matter Expert

VOTE: 9-0 motion approved

- B. ABET
No report given

- C. NCEES

- 1. Western Zone Interim Meeting Update

Mr. Moore reported that travel to San Francisco for the Board meeting travel has been approved. However, negotiations are still taking place to obtain approval from DCA and the Agency Secretary to attend the NCEES Western Zone (WZ) meeting in San Francisco. It is important that the California Board is represented and that Board staff is on hand to assist with registrations and help facilitate the various meetings.

The Board meeting will be conducted on Thursday, April 18 with registration for the NCEES WZ meeting taking place that afternoon. State Senator Anthony Cannella will be present to welcome everyone to the Western Zone meeting. There will be zone committee appointments, presentations, and sessions that will discuss important policies and procedures.

- D. Technical and Professional Societies
Mr. Moore provided an overview on the promotions and outreach that he and other staff members have completed and future commitments to provide information to promote the new CBT exams, test plans, and the EIT/LSIT certification process.

Mr. Zinn and Mr. Moore are scheduled to attend AEG, San Francisco chapter, to speak. Mr. Moore is hopeful to attend more ACEC events.

XIII. President's Report/Board Member Activities

President Wilburn is hopeful approval to attend the Western Zone conference to represent the Board will be obtained.

Mr. Modugno and Mr. Silva were appointed by president Wilburn to be the nomination committee.

XIV. Other Items Not Requiring Board Action

Mr. Moore indicated that Mr. Trujillo and President Wilburn are in their grace year; he is in touch with the Department regarding term expirations.

Mr. Dewitt, representing ACEC, stated that ACEC will support reappointments.

Mr. Hanlin representing CLSA, commented that CLSA appreciates the strong commitment from the Board and noted that Frank Lehman is a registered forester and may be consulted.

Mr. Moore discussed tentative changes to Board meeting dates. He would like to eliminate both May and July meetings and have a June 13 meeting.

He added that Doug McCauley suggested hosting a joint board meeting that would be held at DCA's Board room June 13.

XV. Approval of Consent Items

(These items are before the Board for consent and will be approved with a single motion following the completion of Closed Session. Any item that a Board member wishes to discuss will be removed from the consent items and considered separately.)

F. Approval of the Minutes of the January 31, 2013 Board Meeting

MOTION: Mr. Silva and Mr. Josephson moved to approve the minutes as amended.

VOTE: 9-0 Motion approved.

III. Closed Session – Personnel Matters, Examination Procedures and Results, Administrative Adjudication, and Pending Litigation (As Needed) [Pursuant to Government Code sections 11126(a) and (b), 11126(c)(1), 11126(c)(3), 11126 (e)(1), and 11126(e)(2)(B)(i)]

A. Dennis William McCreary vs. Board for Professional Engineers, Land Surveyors, and Geologists, Sierra County Superior Court Case No. 7361

B. Thomas Lutge v. Board for Professional Engineers, Land Surveyors, and Geologists, Department of Consumer Affairs, Sacramento Superior Court Case No. 34-2012-80001329-CU-WM-GDS

C. Michael Kissel v. Ric Moore, Board for Professional Engineers, Land Surveyors, and Geologists, Department of Consumer Affairs, Sacramento Superior Court, Small Claims Division, Case No. 13SC00365

IV. Open Session to Announce the Results of Closed Session

Ms. Eissler announced that the Board discussed the three law suits as noticed on the agenda and took action on a petition for reconsideration, a default decision, a decision after rejection of a proposed decision, and two proposed decisions.

IV. Enforcement (cont.)

President Wilburn noted that as part of the Administrative Task Force, he would like a review of actual enforcement cases and would like it broken down to see where the delays are occurring. Ms. Eissler also suggested looking at other factors such as waiting to hear from someone, has it moved to another agency such as the Division of Investigation, Attorney General's Office, or the Office of Administrative Hearings. All of these are considerations and whether or not the staff has an influence.

XVI. Adjourn

PUBLIC PRESENT

Jim Wood, Consulting Geologist

Steve Hao, CalTrans

Roger hanlin, CLSA

Bob DeWitt, ACEC